



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)



Thursday, the First day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

and

The Hon`ble Mr.Justice N.ANAND VENKATESH

Crl.M.P. (MD) No.12087 of 2022

in

Crl.A. (MD) No.561 of 2022

1 RAJAGOPAL

2 MURUGAN

... PETITIONERS / APPELLANTS / ACCUSED NO.1 & 2

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE

POOVANTHI POLICE STATION,

SIVAGANGAI DISTRICT.

(CRIME NO.107/2011)

... RESPONDENT / COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the Petitioners/Appellants/Accused No.1 and 2 in S.C.No.27/2012 dated 15.07.2022 on the file of the Learned Fast Track Mahila Judge, Sivagangai and enlarge them on bail till the disposal of the Appeal.

Prayer in Crl.A. (MD) No.561 of 2022:

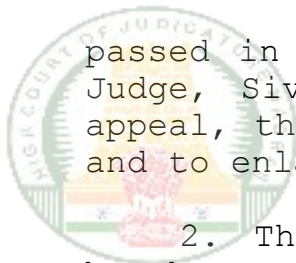
To call for the records relating to the judgment passed in S.C.No.27/2017 dated 15.07.2022 on the file of the learned Fast Track Mahila Judge, Sivagangai and set aside the same and acquit the Appellant / Accused No.1 & 2 from all the charges levelled against them.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.GOPALA KRISHNA LAKSHMANA RAJU, Advocate for M/S.RISHWANTH.S.G.L., Advocate for the petitioner and of MR.M.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by N. ANAND VENKATESH, J.)

The petitioners herein, who were convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of Rs.15,000/-, by judgment and order dated 15.07.2022

<https://www.mhc.tn.gov.in/judis>



passed in S.C.No.27 of 2012 on the file of the Fast Track Mahila Judge, Sivagangai, has filed the above criminal appeal. In the appeal, the present petition has been filed to suspend the sentence and to enlarge the petitioners on bail.

2. The case of the prosecution is that the petitioners are brothers and P.W.1, who is a College student, is said to have teased one Sandhiya, who is the niece of the petitioners. On 01.08.2011, at about 8.00 a.m., A1 and A2 are said to have confronted P.W.1 and there was a small altercation. P.W.1 is said to have informed about this incident to his uncle and ultimately, P.W.1, P.W.2 and P.W.4 and the deceased went to the house of the petitioners and there was a wordy quarrel and a melee, which ultimately ended in the deceased being attacked by the petitioners with aruval and knife and the deceased succumbed to the injuries.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

4. The main crux of the argument of the learned senior counsel appearing on behalf of the petitioners is that this is a clear case, where the petitioners had exercised their right of private defence. To substantiate the same, the learned senior counsel submitted that admittedly it was P.W.1, P.W.2, P.W.4 and the deceased, who had started the problem. It is also clear from the evidence of the Doctor, who was examined as P.W.13, that both the petitioners had sustained injuries. Hence, it was contended that the deceased party were the aggressors and the petitioners had to necessarily defend themselves in exercise of their private defence.

5. Taking into consideration the facts and circumstances of the case and also the fact that a prima facie case has been made out and there are no bad antecedents against the petitioners, this Court is inclined to consider the petition for suspension of sentence. There are various grounds that have to be taken into consideration in the present criminal appeal and it will take some more time for this Court to hear the appeal finally. It is stated that the petitioners have paid the fine amount.

6. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.27 of 2012 dated 15.07.2022 subject to the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Fast Track Mahila Judge, Sivagangai.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and



(iii) The petitioners shall appear before the concourt Court once in fortnight at 10.30 a.m., until disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
01/12/2022

/ TRUE COPY /

02/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE FAST TRACK MAHILA JUDGE,
SIVAGANGAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
POOVANTHI POLICE STATION,
SIVAGANGAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.G.L.RISHWANTH, Advocate (SR-14170[I] dated
01/12/2022)

ORDER
IN
Crl.M.P.(MD) No. 12087 of 2022
in Crl.A.(MD) No.561 of 2022
Date :01/12/2022

RR

MK/VR/SAR I/02.12.2022/3P/6C